

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application:

E. RAY CARTER : July 28, 2003
Serial No.: 09/903,041 : Art Unit: 1723
Filed: 7/11/01 : Examiner: TONY GLEN SOOHOO
For: SPRAY CAN MIXER APPARATUS

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REQUEST FOR RECONSIDERATION

Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

Sir:

Reconsideration of this application is respectfully requested.

It is respectfully suggested that the 35 U.S.C. §103 rejection based on the Roepke '278 patent is improper and should be withdrawn.

The Roepke '278 patent does not rotate, but rather it oscillates! There is a definite distinction between oscillation and rotation.

Furthermore, it would be virtually impossible to rotate a spray can by means of a hand held drill!

Applicant positively disagrees with the Examiner's analysis of rotation of the

Roepke structure as found in the first full paragraph on page 3 of Paper No. 5. Nothing in the Roepke structure indicates that the can does anything but oscillate or shake in any embodiment disclosed. The can does not rotate!

Claims 1 and 9 positively recite that the spray can rotates.

Please refer to the "Remarks" portion of Amendment A for further comments regarding Roepke.

Again, the analysis of the Rosenblatt structure with respect to the rejection found in Paper No. 5 is traversed. A specific RPM range is positively claimed in claims 1 and 9 and the Rosenblatt structure neither teaches nor suggests such range. Again, the reason is simply that rotating insulin is different from rotating a can of spray paint. Nothing that the Examiner has cited has remotely suggested the claimed rotational speed.

It is respectfully submitted that the Examiner's analysis of electric motors is immaterial - nothing in the prior art suggests the claimed RPM range.

Thus, clearly, the claimed structure defines over the cited art.

Accordingly, with claims 1 and 9 allowable over the prior art, the remaining claims, all dependent, are deemed allowable also. The disclosures of the Blume et al '335 Patent and the Sterrenberg '622 Patent are accordingly immaterial.

The allowability of claims 28, 31, 34-36 is again noted.

Respectfully submitted,

E. RAY CARTER, Applicant